



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/325,296	06/03/1999	BRYAN L. REIDENBACH	1493-M	2647

7590

04/14/2003

JOSEPH A SEBOLT
SAND & SEBOLT
4801 DRESSLER ROAD NW STE 194
CANTON, OH 44718

EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 04/14/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/325,296

Applicant(s)

REIDENBACH, BRYAN L.

Examiner

Nathan J. Newhouse

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-14,17,21-32,34-38 and 40-88 is/are pending in the application.
- 4a) Of the above claim(s) 12-14,17,21-32,34-38,40,42,47,50-68 and 75-88 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,5-11 and 69-73 is/are allowed.
- 6) ☒ Claim(s) 41,43-46,48,49 and 74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 14, 17, 21-32, 34-38, 40, 51-68 and 77-88 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 20.
2. Claims 12-13, 42, 47, 50 and 75-76 are withdrawn as being drawn to a nonelected species, even though these claims were stated to read on the elected species of figures 10-12. Claim 12 is directed to the blocking and clamping protrusion on species shown in figures 16-17. Claims 13 and 50 are directed to a connection strap(hinge) on species shown in figure 18. Claims 42, 47 and 75-76 are directed to a security flange on the bottleneck on species shown in figure 9.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 41, 43-46 and 48-49 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not set forth how the security fins allow for selective rotation. In fact, from the

Art Unit: 3727

drawings, it would appear that the security fins do not come into contact with any part of the bottleneck. Therefore, it is unclear how the security fins would be able to perform this function.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 41, 43-46 and 48-49 are rejected under 35 U.S.C. 102(b) as being anticipated by the German reference (4433238).

The German reference teaches a container 6 with a nozzle(open end) and a stopping ledge 13. The German reference further teaches a cap 3 with a breakaway skirt comprising an outer skirt 11, a plurality of inner skirts 12 and a plurality of security fins 14 in between the inner skirts 12. To the degree that applicant's security fins "allow for selective rotation of the closure on the container" the security fins of the German reference function to the same degree.

With respect to claims 45-46, see figure 1 which shows a stopping ledge 13 that is curved/rounded at the top and edges/corners and a planar bottom.

With respect to claims 48-49, the security fins 14 have the same structure as applicant's fins, therefore the fins of the German reference inherently must perform the

Art Unit: 3727

same function. In addition, the fins provide resistance to inward deflection as shown in figure 6.

7. Claim 74 is rejected under 35 U.S.C. 102(b) as being anticipated by McCandless (US 5,501,349).

McCandless teaches a cap 12 with a breakaway skirt 24 having an outer skirt 26 with a plurality of inner skirts 28. McCandless further teaches a security ring 30 located below the inner skirts.

Allowable Subject Matter

8. Claims 1, 5-11 and 69-73 are allowed.

Response to Arguments

9. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc.,

Art Unit: 3727

requests for copies of such papers or other general questions should be directed to

Tech Center 3700 Customer Service at (703) 306-5648, email

CustomerService3700@uspto.gov .


Any inquiry concerning the merits of the examination of the application from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov


Nathan J. Newhouse
Primary Examiner
Art Unit 3727

April 4, 2003